



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 20, 1996

Mr. John Steiner  
Division Chief  
City of Austin  
Department of Law  
P.O. Box 1088  
Austin, Texas 78767-1088

OR96-0213

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38122.

The City of Austin (the "city") has received a request for two specified incident reports concerning a named individual and information concerning any other complaints filed by that individual. You have released the specified incident reports in their entirety. You have submitted several other reports for our review and claim that one of the reports is excepted from disclosure in its entirety and portions of the remaining reports which reference that report are excepted from disclosure under the common-law privacy aspect of section 552.101 of the Government Code.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Information must be withheld under section 552.101 in conjunction with common-law privacy only if the information is highly intimate or embarrassing *and* it is of no legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

We have reviewed the records submitted for our review and conclude that one of the reports contains highly intimate or embarrassing information which is of no legitimate concern to the public. The city must withhold the report in its entirety, as well as any references to the report in the remaining documents. We have marked the information the

city must withhold on the basis of common-law privacy.<sup>1</sup> The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/ch

Ref.: ID# 38122

Enclosures: marked documents

cc: Randall W. Livingston, Jr.  
Knolle, Livingston & Holcomb  
1121 Texas Commerce Bank Building  
700 Lavaca  
Austin, Texas 78701  
(w/o enclosures)

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<sup>1</sup>You explain that the individual who is the subject of the request and the incident reports has initiated civil litigation concerning this matter. We agree with your contention that the city may not withhold the incident report if the information is included in public court records. See *Star Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992).